

**Notice of Allowability**

Application No.

09/817,005

Applicant(s)

BOSSEMEYER, ROBERT  
WESLEY

Examiner

Donald L. Storm

Art Unit

2626

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Request for Continued Examination (RCE) filed August 31, 2007.
2. ☒ The allowed claim(s) is/are 1-26 and 28-32.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

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| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 5. <input type="checkbox"/> Notice of Informal Patent Application                      |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance              |
|  | 9. <input type="checkbox"/> Other _____.   |

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after payment of the issue fee. Since this application is eligible for continued examination under 37 CFR 1.114, a petition under 37 CFR 1.313 was filed and granted, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114.

The Applicant's AMENDMENT AFTER NOTICE OF ALLOWANCE PURSUANT TO 37 C.F.R. § 1.312, filed on June 26, 2007, has been entered.

The Applicant's SUPPLEMENTAL AMENDMENT AFTER NOTICE OF ALLOWANCE PURSUANT TO 37 C.F.R. § 1.312, filed on July 9, 2007, has NOT been entered.

The Applicant's AMENDMENT ACCOMPANYING PETITION TO ACCEPT AN INTENTIONALLY DELAYED CLAIM UNDER 35 U.S.C. 120 AFTER PAYMENT OF ISSUE FEE, filed on August 31, 2007, has been entered.

An action continuing examination on the merits follows. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### *Allowable Subject Matter*

2. Claims 1-26, 28-29, 30, and 31-32 are allowed. The claims have been renumbered for printing to be claims 1-26, 28-29, 27, and 30-31.

### *Priority*

3. It is noted that the AMENDMENT ACCOMPANYING PETITION TO ACCEPT AN INTENTIONALLY DELAYED CLAIM UNDER 35 U.S.C. 120 AFTER PAYMENT OF ISSUE FEE, filed on August 31, 2007, causes this application to contain a specific reference to U.S.

nonprovisional applications 09/436,296, 08/932,078, and 08/463,462 as the first sentence of the specification in order to rely on the filing dates of the prior applications under 35 U.S.C. 120.

***Response to Amendment***

4. On page 2 of SUPPLEMENTAL AMENDMENT AFTER NOTICE OF ALLOWANCE PURSUANT TO 37 C.F.R. § 1.312, filed on July 9, 2007, an amendment is directed to paragraph [0001] of the specification. This amendment has NOT been entered. The directions for the entry appear to be defective, as inaccuracy in the page, paragraph, or line designated. The specification of record in the Office copy of this application does not refer to paragraphs by number. See MPEP § 714.23.

5. On page 2 of AMENDMENT ACCOMPANYING PETITION TO ACCEPT AN INTENTIONALLY DELAYED CLAIM UNDER 35 U.S.C. 120 AFTER PAYMENT OF ISSUE FEE, filed on August 31, 2007, an amendment is directed to paragraph [0001] of the specification. The directions for the entry appear to be defective, as inaccuracy in the page, paragraph, or line designated. The specification of record in the Office copy of this application does not refer to paragraphs by number. See MPEP § 714.23.

The Examiner has found nearby pages and lines for which the requested amendments were probably intended as shown by the context. The Examiner has caused the AMENDMENT ACCOMPANYING PETITION TO ACCEPT AN INTENTIONALLY DELAYED CLAIM UNDER 35 U.S.C. 120 AFTER PAYMENT OF ISSUE FEE, filed on August 31, 2007, to be entered in the specification on page 1, replacing the paragraph at lines 4 through 7.

If the changes and/or additions by the Examiner are unacceptable to the Applicant, detailed instructions should be submitted in the next communication from the Applicant. An amendment may be filed after final rejection as provided by 37 CFR 1.116. An amendment may be filed after allowance as provided by 37 CFR 1.312 (and MPEP § 1303.01).

**Conclusion**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald L. Storm, of Division 2626, whose telephone number is (571) 272-7614. The examiner can normally be reached on weekdays between 7:00 AM and 3:30 PM Eastern Time. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571) 272-7602.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Inquiries regarding the status of submissions relating to an application or questions on the Private PAIR system should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100 between the hours of 6 a.m. and midnight Monday through Friday EST, or by e-mail at: [ebc@uspto.gov](mailto:ebc@uspto.gov). For general information about the PAIR system, see <http://pair-direct.uspto.gov>. If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

October 2, 2007

/Donald L. Storm/

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Primary Patent Examiner  
Division 2626